IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL STAMP NO. 11437 OF 2005
WITH
CIVIL APPLICATION NO. 2254 OF 2005

Shri Vishwanath Rajaram Mungekar ..Appellant
Vs.
Shri Ashok Prabhakar Mayekar and ors. ..Respondents

Mr. B.G. Tangsali for appellant.
Mr.D.S. Sawant for respondent nos.1 to 4.
Mr. R.S. Apte for respondent no.5.

CORAM: B.H. MARLAPALLE, J.

Date : June 13, 2007.

P.C.:

1. Mr. Tangsali the learned counsel for the appellant-original plaintiff undertakes to remit the costs amount of Rs.1000/- within one week from today. Hence, the Registry is directed to register the appeal on the basis of this undertaking.

2. Both the courts below have concurrently held that the suit filed by the plaintiff challenging the notice issued by the respondent-corporation was not maintainable for want of statutory notice as envisaged under Section 487 of the Bombay Provincial Municipal

Corporation Act 1949 and in view of the provisions of Section 149 of the M.R.T.P. Act, 1966, the suit was not maintainable before the Civil Court. Therefore, no substantial question of law arises for consideration in this second appeal.

3. However, the learned counsel for the appellant stated that the notice issued by the Corporation is a subject matter of challenge in the Revision Application, which is presently pending before the State Government and the same will have to be decided on its own merits.

4. Hence, the appeal is dismissed in limine and it is made clear that this dismissal will not in any way influence the decision in the pending Revision Application.

5. Civil Application No.2254 of 2005 does not survive and the same shall stand disposed as such.

(B.H. Marlapalle,J.)